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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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*Ex parte* THOMAS E. SAULPAUGH, GREGORY L. SLAUGHTER, MOHAMED M. ABDELAZIZ, and BERNARD A. TRAVERSAT

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Appeal 2007-2639
Application 09/653,610
Technology Center 2100

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Decided: January 29, 2008

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Before JOHN C. MARTIN, JOSEPH F. RUGGIERO, and ROBERT E. NAPPI, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Final Rejection of claims 1-5, 13-22, 30-39, and 47-51. Claims 6-12, 23-39, and 40-46 have been indicated to be allowable by the Examiner subject to being rewritten in independent form. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Appellants' claimed invention relates to the accessing of a service in a distributed computing environment in which a client receives a capability credential indicative of the client's permission to access a portion of the capabilities of the service. The received capability credential is used by the client to request an access interface document to access the portion of the service with the client subsequently using the interface from the access interface document to access the portion of the service. (Specification 13-15).

Claim 1 is illustrative of the invention and reads as follows:

1. A method for accessing a service in a distributed computing environment, comprising:

a client receiving a capability credential, wherein said capability credential indicates that the client is allowed to access a portion of a first service's capabilities;

the client using said capability credential to request an access interface document to access the first service;

the client receiving said access interface document, wherein said access interface document comprises an interface for accessing only said portion of the first service's capabilities; and

the client using the interface from said access interface document to access a capability from said portion of the first service's capabilities.

The Examiner relies on the following prior art references to show unpatentability:

| | | |
|---|---|---|
| He | US 6,088,451 | Jul. 11, 2000 (filed Jun. 28, 1996) |
| Pulliam | US 6,609,108 B1 | Aug. 19, 2003 (filed Apr. 4, 2000) |

Claims 1, 18, and 35 stand rejected under 35 U.S.C. § 102(e) as being anticipated by He.

Claims 2-5, 13-17, 19-22, 30-34, 36-39, and 47-51 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the combination of He and Pulliam.

Rather than reiterate the arguments of Appellants and the Examiner, reference is made to the Briefs and Answer for the respective details. Only those arguments actually made by Appellants have been considered in this decision. Arguments which Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived [see 37 C.F.R. § 41.37(c)(1)(vii)].

## ISSUES

(i) Under 35 U.S.C § 102(e), does He have a disclosure which anticipates the invention set forth in claims 1, 18, and 35?

(ii) Under 35 U.S.C § 103(a), with respect to appealed claims 2-5, 13-17, 19-22, 30-34, 36-39, and 47-51, would one of ordinary skill in the art

at the time of the invention have found it obvious to combine He with Pulliam to render the claimed invention unpatentable?

## PRINCIPLES OF LAW

### 1. ANTICIPATION

It is axiomatic that anticipation of a claim under § 102 can be found if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326 (Fed. Cir. 1986) and *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.,* 730 F.2d 1452, 1458 (Fed. Cir. 1984).

In rejecting claims under 35 U.S.C. § 102, "[a] single prior art reference that discloses, either expressly or inherently, each limitation of a claim invalidates that claim by anticipation." *Perricone v. Medicis Pharmaceutical Corp.*, 432 F.3d 1368, 1375-76 (Fed. Cir. 2005), citing *Minn. Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 1565 (Fed. Cir. 1992). Anticipation of a patent claim requires a finding that the claim at issue "reads on" a prior art reference. *Atlas Powder Co. v. IRECO, Inc.*, 190 F.3d 1342, 1346 (Fed Cir. 1999) ("In other words, if granting patent protection on the disputed claim would allow the patentee to exclude the public from practicing the prior art, then that claim is anticipated, regardless of whether it also covers subject matter not in the prior art.") (internal citations omitted).

2. OBVIOUSNESS

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). "[T]he examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Furthermore, "'there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness' . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

ANALYSIS

35 U.S.C. § 102(e) REJECTION

With respect to the 35 U.S.C. § 102(e) rejection of independent claims 1, 18, and 35 based on the teachings of He, the Examiner indicates (Ans. 5-6) how the various limitations are read on the disclosure of He. In particular, the Examiner directs attention to the illustrations in Figures 2 and 5 of He as well as the portions of the disclosure at column 18, line 33

through column 19, line 8, column 20, line 14 through column 21, line 22 and column 26, lines 58-65 of He.

Appellants' arguments in response assert that the Examiner has not shown how each of the claimed features is present in the disclosure of He so as to establish a prima facie case of anticipation. According to Appellants (Br. 5-8; Reply Br. 2-5), the He reference provides no disclosure of an access interface document which accesses a portion of a service's capabilities, a feature present in each of the appealed independent claims 1, 18, and 35. After reviewing the He reference in light of the arguments of record, we are in general agreement with Appellants' position as stated in the Briefs.

Our interpretation of the disclosure of He coincides with that of Appellants, i.e., to whatever extent the "tickets" described by He may be construed to be "documents," they are not access *interface* documents as claimed. As argued by Appellants (Br. 5-6; Reply Br. 2), the "tickets" disclosed by He provide access control to He's system, i.e., they give permission to enter the system, but do not provide an interface to enable a user to access a service's capabilities.

We recognize that the Examiner has offered an alternative interpretation (Ans. 5-6 and 12-13) of the disclosure of He in which the pull-down menu described by He (col. 26, ll. 58-65) is asserted as corresponding to the claimed "access interface document." It is our view, however, that, as with the previously discussed "tickets" of He, to whatever extent He's pull-down menu could possibly be construed to be a "document," it is not an

"access interface document" as particularly set forth in independent claims 1, 18, and 35.

As argued by Appellants (Br. 8; Reply Br. 3-5), each of the appealed independent claims requires that a user client use a capability credential to request an access interface document to access a service's capabilities. In the system described by He, however, as correctly characterized by Appellants, the client user uses the pull-down menu to identify which network system element is desired to be accessed. It is only then that a capability credential (the ticket of He) is sent to the user which grants access permission to the user. In other words, the access procedure described by He can not correspond to what is claimed because the client user in He does not use a capability credential to request an access interface document since the user has already used the pull-down menu to select the network system element for which access is desired.

In view of the above discussion, since all of the claim limitations are not present in the disclosure of He, we do not sustain the Examiner's 35 U.S.C. § 102(e) rejection of appealed independent claims 1, 18, and 35.

35 U.S.C. § 103(a) REJECTION

We also do not sustain the Examiner's obviousness rejection of dependent claims 2-5, 13-17, 19-22, 30-34, 36-39, and 47-51 based on the combination of He and Pulliam. The Examiner has applied the Pulliam reference to address the advertisement request message and XML schema features of the dependent claims. We find nothing in the disclosure of

Pulliam, however, which overcomes the innate deficiencies of the He reference discussed *supra*.

## CONCLUSION

In summary, we have not sustained either of the Examiner's rejections of the claims on appeal. Therefore, the decision of the Examiner rejecting claims 1-5, 13-22, 30-39, and 47-51 is reversed.

REVERSED

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